

Order

**Michigan Supreme Court
Lansing, Michigan**

March 22, 2010

Marilyn Kelly,
Chief Justice

ADM File No. 2010-08

Michael F. Cavanagh
Elizabeth A. Weaver
Maura D. Corrigan
Robert P. Young, Jr.
Stephen J. Markman
Diane M. Hathaway,
Justices

Proposed Administrative Order No. 2010-X

Proposal to Rescind Administrative Order No. 2003-7
and Adopt Administrative Order No. 2010-X
(Caseflow Management Guidelines)

On order of the Court, this is to advise that the Court is considering adopting the following proposed order and rescinding Administrative Order 2003-7. Before determining whether the proposal should be adopted, changed before adoption, or rejected, this notice is given to afford interested persons the opportunity to comment on the form or the merits of the proposal or to suggest alternatives. The Court welcomes the views of all. This matter will be considered at a public hearing by the Court before a final decision is made. The schedule and agendas for public hearings are posted on the Court's website, www.courts.michigan.gov/supremecourt.

Publication of this proposal does not mean that the Court will issue an order on the subject, nor does it imply probable adoption of the proposals in their present form.

[This proposal is based on Administrative Order No. 2003-7. Additions are shown in underlining and deletions are shown in strikeover.]

The management of the flow of cases in the trial court is the responsibility of the judiciary. In carrying out that responsibility, the judiciary must balance the rights and interests of individual litigants, the limited resources of the judicial branch and other participants in the justice system, and the interests of the citizens of this state in having an effective, fair, and efficient system of justice.

Accordingly, on order of the Court,

A. The State Court Administrator is directed, within available resources, to:

1. assist trial courts in implementing caseflow management plans that incorporate case processing time guidelines established pursuant to this order;

2. gather information from trial courts on compliance with caseload management guidelines; and
3. assess the effectiveness of caseload management plans in achieving the guidelines established by this order.

B. Trial courts are directed to:

1. maintain current caseload management plans consistent with case processing time guidelines established in this order, and in cooperation with the State Court Administrative Office;
2. report to the State Court Administrative Office caseload management statistics and other caseload management data required by that office; and
3. cooperate with the State Court Administrative Office in assessing caseload management plans implemented pursuant to this order.

Trial courts are directed to report caseload management statistics and data to enable the State Court Administrative Office to assist trial courts in improving caseload management. The State Court Administrative Office does not intend to use these data in a punitive fashion or to publish these data for public review.

On further order of the Court, the following time guidelines for case processing are provided as goals for the administration of court caseloads. These are only guidelines and are not intended to supersede procedural requirements in court rules or statutes for specific cases, or to supersede reporting requirements in court rules or statutes. The Court does not encourage or condone the practice of trial courts dismissing cases for the sole reason that the case is likely to exceed the guideline. In addition, these guidelines do not supplant judicial discretion if, for good cause shown, a specific case of any type requires a time line that extends beyond the maximum permitted under these guidelines.

Note: The phrase "adjudicated" refers to the date a case is reported in Part 2 of the caseload report forms and instructions. Aging of a case is suspended for the time a case is inactive as defined in Parts 2 and 4 of the caseload report forms and instructions. Refer to these specific definitions for details.

Matters Submitted to the Judge. Matters under submission to a judge or judicial officer should be promptly determined. Short deadlines should be set for presentation of briefs and affidavits and or production of transcripts. Decisions, when possible, should

be made from the bench of within a few days of submission; otherwise a decision should be rendered no later than 35 days after submission.

Probate Court Guidelines.

1. *Estate, Trust, Guardianship, and Conservatorship Proceedings.* 75% of all contested matters should be adjudicated within 182 days from the date of the filing of objection; ~~90% within 273 days;~~ and 100% within 364 days ~~except for individual cases in which the court determines exceptional circumstances exist and for which a continuing review should occur.~~
2. *Mental Illness Proceedings; Judicial Admission Proceedings.* 90% of all petitions should be adjudicated within ~~147~~ days from the date of filing and 100% within 28 days.
3. *Civil Proceedings.* 75% of all cases should be adjudicated within 364 days from the date of case filing; ~~95% within 546 days;~~ and 100% within 728 days ~~except for individual cases in which the court determines exceptional circumstances exist and for which a continuing review should occur.~~
4. ~~*Miscellaneous Proceedings.* 100% of all petitions should be adjudicated within 35 days from the date of filing.~~

District Court Guidelines.

1. *Civil Proceedings.*
 - a. General Civil. 90% of all general civil and miscellaneous civil cases should be adjudicated within 273 days from the date of case filing; ~~98% within 364 days;~~ and 100% within 455 days ~~except for individual cases in which the court determines exceptional circumstances exist and for which a continuing review should occur.~~
 - b. Summary Civil. 100% of all small claims, landlord/tenant, and land contract actions should be adjudicated within 126 days from the date of case filing except, in those cases where a jury is demanded, actions should be adjudicated within 154 days from the date of case filing.
2. *Felony, Misdemeanor, and Extradition Detainer Proceedings.*
 - a. Misdemeanor. 90% of all statute and ordinance misdemeanor cases, including misdemeanor drunk driving and misdemeanor traffic, should

be adjudicated within 63 days from the date of first appearance; ~~98% within 91 days;~~ and 100% within 126 days.

- b. Felony and Extradition/Detainer. ~~100%~~80% of all preliminary examinations in felony, felony drunk driving, felony traffic, and extradition/detainer cases should be ~~commenced~~concluded within 14 days of arraignment and 100% within 28 days ~~unless good cause is shown.~~
3. *Civil Infraction Proceedings.* 90% of all civil infraction cases, including traffic, nontraffic, and parking cases, should be adjudicated within 35 days from the date of filing; ~~98% within 56 days;~~ and 100% within 84 days.

Circuit Court Guidelines.

1. *Civil Proceedings.* 75% of all cases should be adjudicated within 364 days from the date of case filing; ~~95% within 546 days;~~ and 100% within 728 days ~~except for individual cases in which the court determines exceptional circumstances exist and for which a continuing review should occur.~~
2. *Domestic Relations Proceedings.*
 - a. Divorce Without Children. 90% of all divorce cases without children should be adjudicated within ~~94~~182 days from the date of case filing; ~~98% within 273 days;~~ and 100% within 364 days.
 - b. Divorce With Children. 90% of all divorce cases with children should be adjudicated within ~~245~~301 days from the date of case filing; ~~98% within 301 days;~~ and 100% within 364 days.
 - c. Paternity. 90% of all paternity cases should be adjudicated within 147 days from the date of case filing and 100% within 238 days.
 - ~~d. Responding Interstate for Registration. 100% of all incoming interstate actions should be filed within 24 hours of receipt of order from initiating state.~~
 - ~~e.d.~~ Responding Interstate Establishment. 90% of all incoming interstate actions to establish support should be adjudicated within 147 days from the date of case filing and 100% within 238 days.
 - ~~f.e.~~ Child Custody Issues, Other Support, and Other Domestic Relations Matters. 90% of all child custody, other support, and other domestic

relations issues not listed above should be adjudicated within 147 days from the date of case filing and 100% within 238 days.

3. *Delinquency Proceedings.* Where a minor is being detained or is held in court custody, 90% of all original petitions or complaints should have adjudication and disposition completed within 84 days from the authorization of the petition and 100% within 98 days. Where a minor is not being detained or held in court custody, 75% of all original petitions or complaints should have adjudication and disposition completed within 119 days from the authorization of the petition; ~~90% within 182 days~~; and 100% within 210 days.
4. *Child Protective Proceedings.* Where a child is in out-of-home placement (foster care), 90% of all original petitions should have adjudication and disposition completed within 84 days from the authorization of the petition and 100% within 98 days. Where a child is not in out-of-home placement (foster care), 75% of all original petitions should have adjudication and disposition within 119 days from the authorization of the petition; ~~90% within 182 days~~; and 100% within 210 days.
5. *Designated Proceedings.* 90% of all original petitions should be adjudicated within 154 days from the designation date and 100% within 301 days. Minors held in custody should be afforded priority for trial.
6. *Juvenile Traffic and Ordinance Proceedings.* 90% of all citations should have adjudication and disposition completed within 63 days from the date of first appearance; ~~98% within 91 days~~; and 100% within 126 days.
7. *Adoption Proceedings.*
 - a. Petitions for Adoption. 90% of all petitions for adoption should be finalized or otherwise concluded within 287 days from the date of filing and 100% within 364 days.
 - b. Petitions to Rescind Adoption. 100% of all petitions to rescind adoption should be adjudicated within 91 days from the date of filing.
8. *Miscellaneous Family Proceedings.*
 - a. Name Change. 100% of all petitions should be adjudicated within ~~91~~126 days from the date of filing.

- b. Safe Delivery. 100% of all petitions should be adjudicated within 273 days from the date of filing.
- c. Personal Protection. 100% of all petitions filed ex parte should be adjudicated within 24 hours of filing. 90% of all petitions not filed ex parte should be adjudicated within 14 days from the date of filing and 100% within 21 days.
- d. Emancipation of Minors. 100% of all petitions should be adjudicated within 91 days from the date of filing.
- e. Infectious Diseases. 100% of all petitions should be adjudicated within 91 days from the date of filing.
- f. Parental Waiver. 100% of all petitions should be adjudicated within 5 days from the date of filing.

9. *Ancillary Proceedings.*

- a. Guardianship and Conservatorship Proceedings. 75% of all contested matters should be adjudicated within 182 days from the date of filing; ~~90% within 273 days~~; and 100% within 364 days.
- b. Mental Illness Proceedings; Judicial Admission. 90% of all petitions should be adjudicated within ~~147~~ days from the date of filing and 100% within 28 days.

10. *Criminal Proceedings.* 90% of all felony cases should be adjudicated within ~~91~~154 days from the date of entry of the order binding the defendant over to the circuit court; ~~98% within 154 days~~; and 100% within 301 days. Incarcerated persons should be afforded priority for trial.

11. *Appellate, Administrative Review, and Extraordinary Writ Proceedings.*

- a. Appeals from Courts of Limited Jurisdiction. 100% of all appeals to circuit court from courts of limited jurisdiction should be adjudicated within 182 days from the filing of the claim of appeal.
- b. Appeals from Administrative Agencies. 100% of all appeals to the circuit court from administrative agencies should be adjudicated within 182 days from the filing of the claim of appeal.

- c. Extraordinary Writs. 98% of all extraordinary writ requests should be adjudicated within 35 days from the date of filing and 100% within 91 days.

~~12. *Matters Submitted to the Judge.* Matters under submission to a judge or judicial officer should be promptly determined. Short deadlines should be set for presentation of briefs and affidavits and for production of transcripts. Decisions, when possible, should be made from the bench or within a few days of submission; otherwise a decision should be rendered no later than 35 days after submission.~~

Staff Comment: This proposal would update the guidelines contained in Administrative Order 2003-7. The following list summarizes the changes that would be made by the proposed order.

1. Add to the beginning of the order language about good cause for delays and remove related language from specific case categories.
2. Move to the beginning of the order language about matters submitted to judge (this language currently exists at the end of the order).
3. Eliminate all interim guidelines, leaving only initial and final guidelines.
4. Decrease time for adjudicating 90% of mental illness petitions from 14 to 7 days. This time frame would apply to probate and circuit courts.
5. Eliminate guidelines for miscellaneous cases in probate court.
6. Decrease the percentage for preliminary examinations within 14 days from 100% to 80%. Add a 100% guideline for conclusion within 28 days. Extend the goals to include both commencement and conclusion of the examination.
7. Increase the time for adjudicating 90% of divorce cases without children from 91 to 182 days.
8. Increase the time for adjudicating 90% of divorce cases with children from 245 to 301 days.
9. Eliminate guidelines for responding interstate registration cases.
10. Increase the time for adjudicating name change from 91 to 126 days.

11. Increase the time for adjudicating 90% of felony cases from 91 to 154 days.

The staff comment is not an authoritative construction of the Court.

A copy of this order will be given to the Secretary of the State Bar and to the State Court Administrator so that they can make the notifications specified in MCR 1.201. Comments on these proposals may be sent to the Supreme Court Clerk in writing or electronically by July 1, 2010, at P.O. Box 30052, Lansing, MI 48909, or MSC_clerk@courts.mi.gov. When filing a comment, please refer to ADM File No. 2010-08. Your comments and the comments of others will be posted at www.courts.mi.gov/supremecourt/resources/administrative/index.htm.



I, Corbin R. Davis, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

March 22, 2010

Corbin R. Davis
Clerk